



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ET, FFL**

### Introduction

This expedited hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended and was primarily represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the notice of hearing and evidence by leaving it with an adult who appeared to reside in the rental unit and by email to an address previously provided by the tenant. The landlord provided a signed Proof of Service form, copies of the sent emails and a video recording of service on the tenant on October 12, 2022. Based on the evidence I find that the tenant was duly served with the landlord's materials on October 12, 2022 in accordance with sections 88(e) and 89(2)(c) of the *Act* and Regulation 43.

Issue(s) to be Decided

Is the landlord entitled to an early end of tenancy and order of possession?

Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This periodic tenancy began on April 1, 2021. The monthly rent is \$1,500.00 payable on the first of each month. A security deposit of \$700.00 and pet damage deposit of \$700.00 were collected and are still held by the landlord. The rental unit is a suite in a duplex building with three rental units and the landlord residing in a fourth unit.

The landlord testified that since the start of the tenancy the tenant has caused disruption and interference with the other occupants of the building and the landlord through hostile and unpleasant interactions. The landlord gave evidence that on multiple occasions the tenant and their guests have caused uncontrolled fires on the property, both within the building and in outside common areas. Photographs of fire damage to the rental suite were submitted into evidence showing large areas where walls and appliances have been scorched. The landlord also submitted video recordings of the tenant's guest setting large fires outside in common areas.

The landlord submits that the incidents of fire are not aberrations but part of a pattern of behaviour on the part of the tenant and their guests in flagrant disregard of safety and common sense. The landlord notes that the fires are especially concerning as the tenant keeps their rental suite in a state of disrepair with flammable and hazardous materials strewn about.

The landlord says they have issued verbal and written warnings to the tenant but these have been met with hostility and disrespect. The landlord submitted into evidence a copy of a letter issued to the tenant which was returned to the landlord by the tenant with hand-scrawled threats of violence and a large kitchen knife used to stab the correspondence.

The landlord says that the behaviour of the tenant and their guests have caused considerable fear, discomfort and concern for the landlord and the other occupants of the rental property. The landlord says that due to the escalating nature of the behaviour

and the danger to the rental property and safety of others it would be unreasonable and unfair to allow this tenancy to continue.

### Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property;
- engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property, **and**

it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

Based on the evidence of the landlord, including their testimony and documentary materials, I find that the landlord has met their evidentiary onus on a balance of probabilities to demonstrate that the tenant and their guests have disturbed and interfered with the landlord and others causing jeopardy to their health and safety and placing the property at significant risk of irreparable damage.

I find that setting uncontrolled fires to be an inherently dangerous act which causes damage to the property and poses a risk to other occupants of a multi-unit building. While a single instance may be attributed to ordinary error or an accident, the evidence before me shows that the tenant and their guests are repeatedly setting fires inside the building or on common property where it is unreasonable to be producing open flames.

I further accept the evidence of the landlord by way of the returned correspondence from the tenant with their hand-scrawled threats and a large kitchen knife used to intimidate the reader. While the tenant's poor hand-writing makes the full text of their threats illegible, the portions that can be discerned are hostile in nature. The use of a large kitchen knife with their correspondence makes it clear that the tenant's intent is to intimidate and threaten the recipient. I find that the use of a knife to post correspondence is a prima facie threatening action meant to disturb and interfere with others.

I find that the landlord has established that the conduct of the tenant gives rise to a basis for this tenancy to end due to the disturbance, interference, jeopardy to health and safety and the risk to the property.

I accept the landlord's evidence that the conduct of the tenant and their guests have been an ongoing issue that has not abated but in fact has increased in frequency and severity over the course of the tenancy. I find that it would be unreasonable and unfair to the other occupants of the building and the landlord to allow this tenancy to continue or wait for a notice to end tenancy takes effect.

Accordingly, I issue an Order of Possession in the landlord's favour effective 2 days after service on the tenant.

As the landlord was successful in their application they are also entitled to recover their filing fee from the tenant. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in satisfaction of the monetary award issued in the landlord's favour

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced by \$100.00 from \$700.00 to \$600.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 27, 2022

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Residential Tenancy Branch